Filed 5/24/16 Marriage of Clouser and Batarseh CA2/4

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re Marriage of LEO CLOUSER and LISA BATARSEH.	B 261277 (Los Angeles County Super. Ct. No. BD 478447)
LEO CLOUSER, Appellant, v. LISA BATARSEH, Respondent.	

APPEAL from an order of the Superior Court of Los Angeles County, Tamara Hall, Judge. Affirmed.

Friedman and Friedman, Gail S. Green, David Friedman; Law Offices of Jonathan Pakravan, Jonathan Pakravan for Appellant.

Law Offices of Marjorie G. Fuller, Marjorie G. Fuller; Law Offices of Robert M. Cohen and Yvonne T. Simon for Respondent.

INTRODUCTION

Appellant Leo Clouser appeals an order awarding sanctions against him in a proceeding relating to his spousal support obligations to his former wife, Lisa Batarseh.[1] When Leo and Lisa divorced, they agreed that Leo would pay spousal support while Lisa was obtaining a graduate-level education. Leo filed a request for modification of his spousal support obligations, arguing in part that Lisa failed to provide proof that she was enrolled as a full-time student in a graduate program leading to a doctorate degree. Forty days after the trial court issued a detailed ruling denying that request, Leo filed a request to terminate his spousal support obligations, again arguing that Lisa failed to provide proof that she was enrolled as a full-time student in a graduate program. Lisa filed a motion for sanctions. The court granted Lisa's motion, and struck Leo's request for modification. Leo appealed.

We affirm. The court did not abuse its discretion by finding that Leo's motion was based on arguments that had been rejected by the court just 40 days before, and there was no change in circumstances that warranted a renewed request based on substantially similar arguments.

FACTUAL AND PROCEDURAL BACKGROUND

Leo and Lisa were married in May 1993 and divorced in June 2009. Leo filed a request for modification of his spousal support obligations the following year, and the parties reached a stipulated agreement in August 2010 regarding spousal support payments to Lisa. The agreement included the following provision: "Lisa shall use reasonable efforts to become self-supporting, but it is understood by the parties that Lisa is doing so by currently pursuing an education full-time to complete her Master's and PHD [sic] degrees." The agreement also stated, "Lisa shall provide Leo with list [sic] of her course of studies as proof of full time enrollment at a college or university on February 10th for the current academic year." Lisa was a full-time student from August 2011 to December 2013, when she earned her master's degree.

[1]Throughout the briefing and the record, the parties are referred to by their first names only. We do the same here. No disrespect is intended.

A. Leo's previous request for modification of spousal support

In February 2013, Leo filed another request for an order modifying his spousal support payments and imputing income to Lisa. He presented the opinion of a vocational expert, who opined that Lisa could earn income as a lecturer or as a technical recruiter (Lisa's former profession). The court held a five-day evidentiary hearing from January through March 2014. At the hearing on March 13 or 14 (the record is unclear), Lisa testified that she was enrolled full-time at the Pontifical Oriental Institute in Rome, Italy; she was pursuing a Ph.D.; and she anticipated she would obtain her degree in approximately five years. Lisa also admitted that she had not yet provided Leo with proof of enrollment in her new academic program for the current year, as required by the 2010 stipulated agreement.

On April 2, 2014, Lisa provided Leo with proof of her enrollment at Pontifico Istituto Orientale in Rome. The translated proof-of-enrollment letter stated that Lisa "is an Oriental Ecclesiastical Studies FULL-TIME student enrolled in the first year of the program (preparatory year to the 2-year License Program) for the 2013-2014 academic year. The student is enrolled for one year (two semesters)." The letter includes a list of courses labeled "first year," and after each course is the notation, "Not yet taken."

The parties submitted their written closing arguments to the court on April 18, 2014. These arguments are not included in the record.

The court issued a ruling on June 11, 2014, finding that there was no change in circumstances that warranted a modification of the previous spousal support order. The court's order also stated, "The Court finds that [Lisa] is in breach of the terms of the Stipulation and Order by failing to disclose her enrollment consistent with the agreed-upon terms. However, the Court finds that such nonperformance only constitutes a material breach if [Lisa] has failed to pursue her course of study for the Spring 2014 Semester. If [Leo] discovers that [Lisa] has failed to enroll full-time for the Spring 2014 semester then he should seek an appropriate offset for imputation of income based on that failure. Indeed, such a material breach would constitute a change of circumstances that would allow the Court to explore the [Family Code section] 4320 factors anew. The

Court invites [Leo] to file an amended request for post judgment spousal support modification if such evidence exist [sic]."

B. Leo's subsequent request for modification of spousal support and Lisa's request for sanctions

After the court issued its order, Leo's attorney emailed Lisa's attorney about the proof of enrollment Lisa had sent two months earlier, stating, "I am afraid that the attached information does not put your client in compliance with the Court's orders. As you know, Ms. Batarseh is required to submit her list of course studies with proof of full time enrollment to Mr. Clouser. The documents that were submitted to my office on April 2, 2014, list several courses, but do not in fact confirm that Ms. Batarseh is/was enrolled in said courses. The column to the right of each course title indicates that the course is 'not yet taken.' We need a list of courses that Ms. Batarseh did in fact take during the Spring 2014 semester." Leo's counsel threatened to file another request for modification of spousal support if more information was not received within a week.

Lisa's attorney responded on June 25, 2014 in a letter that stated in part, "Lisa has complied by providing Leo with a letter from the school Registrar dated March 17, 2014 stating she is enrolled as a full-time student for the current academic year and a list of her course of studies dated March 17, 2014 for the current academic year. . . . You have been provided with solid proof of her full-time enrollment in accordance with the exact terms of the Stipulation and Order. There is no breach."

On July 21, 2014, 40 days after the court's order denying Leo's previous request for modification, Leo filed another request for modification, asking that his spousal support obligations be terminated. Leo's attorney argued in a declaration that the proof of enrollment Lisa provided was insufficient: "The document provided by [Lisa] is not a list of her course studies for the current academic year, as is required by this Court's current orders. To date, my office has received no documentation to prove that [Lisa] actually signed up for and completed courses during the current academic year, nor the spring 2014 semester. There has been no proof provided to us whatsoever that [Lisa] took and completed classes during Spring semester 2014." Leo also argued that the proof

of enrollment indicated that Lisa was not enrolled in a Ph.D. program, as required by the previous court order. Leo also submitted the declaration of Susan Wise Miller, a vocational expert, who opined that the letter from Lisa's school did not provide sufficient information: "It is unclear to me whether the program in which Ms. Bataresh is enrolled constitutes reasonable efforts to become self-supporting because Ms. Bataresh has not provided sufficient information to confirm her course of studies for 2014. Additionally, the information provided by Ms. Bataresh indicates that she is not currently enrolled in a Ph.D. program."

Lisa filed a motion for sanctions under Code of Civil Procedure section 128.7 (section 128.7). Subdivision (b) of that statute states, "By presenting to the court, whether by signing, filing, submitting, or later advocating, a pleading, petition, written notice of motion, or other similar paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, all of the following conditions are met: (1) It is not being presented primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. (2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law. (3) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery." (§ 128.7, subd. (b).)

Lisa argued that Leo's request for modification was his fourth request since the divorce became final in 2009, it was filed just 40 days after the court denied his last request for modification, and it was primarily intended to harass Lisa. Lisa explained that the listed courses in her proof-of-enrollment letter said "not yet taken" because the letter was prepared in the middle of the semester and the courses had not been completed at that point. Lisa argued that Leo violated three different provisions of section 128.7: subdivision (b)(1) because Leo's primary purpose was to harass Lisa; subdivision (b)(2) because a modification of spousal support requires a change of circumstances, and no

change of circumstances had occurred since the court issued its last order regarding spousal support; and subdivision (b)(3) because the request for modification was not supported by evidence, since the proof-of-enrollment letter provided the information required by the court's order.

Lisa and her attorney submitted declarations in support of the motion. In her declaration, Lisa explained that the list of courses from the Pontifical Oriental Institute said "not yet taken" because she was enrolled in those courses, but had not yet completed them yet when the letter was written. She also explained, "The POI Doctorate program requires completion of their Licentiate as a prerequisite to obtaining the degree." She said that a Pontifical Licentiate was a prerequisite to teaching at Pontifical Universities and Seminaries worldwide, and therefore having the Licentiate would increase her opportunities for employment.

Lisa also stated in her declaration that around the time of the 2009 judgment, Leo threatened to take her back to court every year to reduce his spousal support obligations. Lisa said that six months later, Leo again said he would take her back to court every year to terminate spousal support, forcing her to pay attorney fees. Lisa also said that Leo's attorney said that Leo "will gladly spend $200,000 in attorney's fees each time to continue to litigate motions to terminate his spousal support obligations." Lisa's attorney stated in his declaration that in the parking lot following a deposition of Leo, Leo's attorney told Lisa's attorney that they would be working together for a long time. When Lisa's attorney asked why, Leo's attorney said Leo had given him "a green light and a blank check" to continue attempting to terminate his spousal support obligations. Lisa's attorney also stated in his declaration that the motion for sanctions had been served on Leo's counsel more than a month before it was filed to provide Leo the opportunity to withdraw his request for modification.

Leo did not withdraw his request for modification, and he opposed Lisa's motion for sanctions. He argued that the request for modification "was invited and suggested by the court" in its June 11 order, which stated, "If [Leo] discovers that [Lisa] has failed to pursue her course study for the Spring 2014 semester," Leo could request a modification.

Leo argued that he was not harassing Lisa by bringing the motion because Lisa had violated the court's orders, thereby requiring Leo to file the motion. Leo argued that his request for modification was supported by substantial evidence, including the declaration of his expert, Susan Wise Miller. Leo also submitted a supplemental declaration by Miller, stating that Lisa was not enrolled in a college or university because "it is clear to me that the Pontifical Oriental Institute of Rome is not a Pontifical University."

Leo also objected to portions of the declarations Lisa and her attorney submitted in support of her motion relating to Leo's threats to continue challenging his spousal support obligations. The court sustained some of the objections and overruled others, which are discussed below.

At the December 5, 2014 hearing on Lisa's motion for sanctions, the court held that Lisa's "request for sanctions in the full amount of $5,680, pursuant to California Code of Civil Procedure . . . section 128.7 is granted."[2] The court struck Leo's July 2014 request for modification, and held that Leo and his attorney were jointly and severally liable for the sanctions. The court added, "Counsel for the respondent [Lisa] is to prepare the order after hearing." Leo's attorney asked a moment later, "Your honor, I missed who was preparing the order after hearing." The court responded, "Counsel for the respondent." The court's minute order states the court's award of sanctions, and orders, "Counsel for the Respondent to prepare and submit an Order after Hearing."

Before the court signed a written order, Leo filed a notice of appeal, on December 30, 2014. Lisa's attorney submitted a proposed order on a Judicial Council family law form, which the court signed on January 6, 2015 (the January 6 order). The order referenced "attachment 7," which stated only that Lisa's motion was granted, the amount of the sanctions, and that Leo's request for a modification was stricken.

---

[2]The court also determined that Lisa had met the safe harbor requirements under section 128.7 and *Goodstone v. Southwest Airlines Co*. (1998) 63 Cal.App.4th 406, 418 ["the so-called safe harbor provisions of section 128.7, subdivision (c)(1) . . . require a sanctions motion be served at least 30 days prior to its filing so as to give the responding party or counsel the opportunity to withdraw 'the challenged paper, claim, defense, contention, allegation, or denial.'"]

Lisa's attorney submitted a second order, which the court signed on January 26, 2015 (the January 26 order). This order also referenced "attachment 7," but this time specific findings were included in the attachment. The attachment stated, in part, "Petitioner's Request for Order for modification of spousal support and sanctions filed July 21, 2014 . . . was presented for the improper purpose of harassing Respondent and needlessly increasing the costs of litigation in violation of Code of Civil Procedure Section 128.7(b)(1)."

The attachment set out specific conduct in support of that finding, including that the request was filed 40 days after Leo's last request was denied and that Leo's arguments were largely repetitive of the arguments in his previously denied request. It also referenced particular statements from Lisa's and her attorney's declarations. Specifically, it noted that Leo "threatened to take [Lisa] back to court every year to reduce/terminate spousal support because 'that's just how it is done,'" and that Leo's requests for modifications had "caused the parties to have spent most of 2009, 2010, 2013, and 2014 litigating motion after motion brought by" Leo. These were statements from Lisa's declaration; Leo had objected to them and the court overruled the objections. However, the attachment also included statements as to which the court had sustained Leo's objections: that Leo had given his attorney a "green light and a blank check" to continue fighting the spousal support obligations, and that Leo would "gladly spend $200,000 in attorney fees each time to continue to litigate motions to terminate his spousal support obligations."

Neither the January 6 nor the January 26 order were included in the original appellate record. Leo twice moved to augment the record on appeal to include the orders, and we granted each of the motions.

STANDARD OF REVIEW

"A court has broad discretion to impose sanctions if the moving party satisfies the elements of the sanctions statute." (*Peake v. Underwood* (2014) 227 Cal.App.4th 428, 441.) We therefore review an award of sanctions under section 128.7 for abuse of discretion. (*Ibid.*) "An abuse of discretion occurs if, in light of the applicable law and

considering all of the relevant circumstances, the court's decision exceeds the bounds of reason and results in a miscarriage of justice." (*New Albertsons, Inc. v. Superior Court* (2008) 168 Cal.App.4th 1403, 1422.)

DISCUSSION

A. Leo's premature notice of appeal

We begin by addressing the threshold issue of the timeliness of Leo's appeal. In her respondent's brief, Lisa points out that Leo's notice of appeal was premature because the court specifically directed Lisa's counsel to submit a written order, and Leo filed a notice of appeal before that written order had been entered. "When a minute order expressly directs that a written order be prepared, an appeal does not lie from the minute order, but only from the later order." (*County of Alameda v. Johnson* (1994) 28 Cal.App.4th 259, 261, fn. 1; see also Cal. Rules of Court, rule 8.104(c)(2).) In his reply brief, Leo asks that we exercise our discretion to "treat this appeal as having been filed after, and being taken from, both the first and second Findings and Orders After Hearing."

We have the discretion to treat a notice of appeal filed after the superior court has announced its intended ruling, but before it has rendered an appealable order, as filed immediately after the entry of the appealable order. (Cal. Rules of Court, rule 8.104(d)(2), (e).) We exercise that discretion and consider the appeal as if the notice of appeal was filed following the court's January 26 written order.

B. The January 26 order was procedurally valid

Leo argues in his opening brief that the trial court abused its discretion by failing to comply with section 128.7, subdivision (e): "When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this section and explain the basis for the sanction imposed." In support of this argument, Leo makes several somewhat misleading statements that focus only on the court's lack of findings at the hearing and in the initial January 6 order: "[T]he record does not reflect the trial court's rationale for imposing sanctions"; "The court's reasons for issuing sanctions against Leo and his attorney are unknown, as there is no explanation on the record for this order";

"The court in this case failed to describe any conduct which constituted a violation of the statute, and failed to explain the basis for the sanction imposed"; and, "No explanation was provided for the imposition of monetary sanctions or for the striking of Leo's pending [request] for modification of spousal support without considering the merits of that [request]."

Leo asserts that the January 26 order was improper because the "findings" in the attachment were "never made by the court" and instead were "created by Lisa's attorney." The trial court, however, chose to adopt those findings when it signed the order. Leo's opening brief does not address case authority directly on point: *Hopkins & Carley v. Gens* (2011) 200 Cal.App.4th 1401 (*Hopkins*). There, the appellant also argued that the trial court failed to comply with section 128.7, subdivision (e) because it did not make specific findings at the hearing. (*Id*. at p. 1418.) The opposing party prepared an order with findings, which the court signed. (*Ibid*.) The Court of Appeal rejected appellant's argument that such an order does not comply with section 128.7, subdivision (e): "No authority is offered for the implicit premise that such an order, when adopted by the court and made its own, cannot satisfy the statutory mandate. To the extent such an argument is made, we reject it." (*Ibid*.)

We agree with the reasoning in *Hopkins*, and reject Leo's argument. The court asked Lisa's counsel to prepare a written order, and Lisa's counsel did so. This is a common practice that is well-established in California procedure. (See, e.g., Judicial Council form FL-340, "Findings and Order After Hearing," adopted for mandatory use; Cal. Rules of Court, rule 1.31 [parties must use Judicial Council forms when adopted for mandatory use]; Cal. Rules of Court, rule 3.1312 [the party prevailing on any motion must prepare a proposed order, serve it on the opposing party, and provide the proposed order to the court]; Hogoboom & King, Cal. Prac. Guide: Family Law (The Rutter Group 2015) paragraph 5:506, p. 5-231 ["Although Family Code proceedings (except for discovery) are not governed by the general civil law and motion Rules of Court . . . , many family courts follow the CRC 3.1312 procedures for submission of a proposed order in OSC and motion matters."].)

Leo addresses *Hopkins* in his reply brief, but contrasts it to this case by pointing out that *Hopkins* involved "a single written order." This case is different, Leo argues, because the January 26 order containing findings was signed after the January 6 order, which did not contain any findings. The January 26 order therefore has "no legal effect," because "the findings contained therein cannot cure the court's lack of compliance with the statutory requirements" of section 128.7, subdivision (e), requiring the court to describe the conduct that is the basis for the sanction. Leo does not cite any legal authority for this proposition.

"[A] trial court has inherent authority to correct an erroneous ruling on its own motion." (*In re Marriage of Barthold* (2008) 158 Cal.App.4th 1301, 1303.) Leo argues that the revised order was entered "in an apparent effort to correct deficiencies in the record." The motivation behind a court's correction of an erroneous order, however, does not affect the validity of the order. As the Supreme Court noted in *Le Francois v. Goel* (2005) 35 Cal.4th 1094 (*Le Francois*), "We cannot prevent a party from communicating the view to a court that it should reconsider a prior ruling (although any such communication should never be ex parte). We agree that it should not matter whether the 'judge has an unprovoked flash of understanding in the middle of the night' ([citation]) or acts in response to a party's suggestion. If a court believes one of its prior interim orders was erroneous, it should be able to correct that error no matter how it came to acquire that belief."[3] (*Le Francois*, 35 Cal.4th at p. 1108.) After all, "[f]orcing the parties to proceed where there is recognized error in the case would result in an enormous waste of the

[3]The Supreme Court in *Le Francois* suggested, "To be fair to the parties, if the court is seriously concerned that one of its prior interim rulings might have been erroneous, and thus that it might want to reconsider that ruling on its own motion . . . it should inform the parties of this concern, solicit briefing, and hold a hearing." (*Le Francois, supra,* 35 Cal.4th at p. 1108.) That did not happen here, but Leo does not argue that the court's procedure in adopting the order failed to comply with this or any other procedural requirement. To the extent there may a basis for asserting that the court's manner of adopting the January 26 ruling was procedurally inappropriate, that argument has been forfeited. (*In re Marriage of Brandes* (2015) 239 Cal.App.4th 1461, 1484 fn. 10.)

court's and the parties' resources." (*Case v. Lazben Financial Co*. (2002) 99 Cal.App.4th 172, 187.) The trial court did not abuse its discretion by entering the January 26 order to include findings as required by section 128.7, subdivision (e).

C. The court did not abuse its discretion by imposing sanctions

Section 128.7 states that attorneys and parties certify that every pleading and motion "is not being presented primarily for an improper purpose, such as to harass," and that the allegations in the motion "have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery." (§ 128.7, subd. (b)(1) & (3).) The primary purpose of section 128.7 is to deter filing abuses. (*Musaelian v. Adams* (2009) 45 Cal.4th 512, 519.) Essentially, "the statute imposes a continuing obligation on a party and counsel to insure that claims are factually and legally sound." (*Rubenstein v. Doe No. 1* (2016) 245 Cal.App.4th 1037, 1052.)

Leo argues that the trial court abused its discretion by imposing sanctions because Leo's request for modification "was supported by evidence, prompted by the court's statement of decision, and not filed for any improper purpose." He argues that he "attempted to obtain verification from Lisa that she was, in fact, enrolled as a full-time graduate student in a doctoral program, and that she was taking a full-time course load during the Spring 2014 semester." Because the letter from the university stated that Lisa had "not yet taken" any classes and further stated that the courses were for a "license program" rather than a Ph.D. degree, Leo argues he had good cause for his request for modification of the spousal support order. Leo also points out that he provided an expert's opinion that Lisa's classes were not likely to lead to a doctoral degree.[4]

[4]At oral argument, Leo's counsel asserted that the trial court erred because it did not hold a hearing on Leo's request for modification to determine whether it had merit before imposing sanctions. Leo's appellate briefs, however, focus on the court's sanctions ruling, and present no argument or legal authority asserting that the court was required to hold a hearing on the merits of Leo's request for modification. Any suggestion of procedural error relating to the lack of a hearing is therefore forfeited. (*Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785 [when an appellant fails

The trial court did not abuse its discretion by finding that Leo's request for modification was filed only 40 days after the court denied a substantially similar request, and that Leo's later request for modification was based on many of the same arguments as his earlier request. The trial court also noted that Leo threatened to take Lisa back to court every year to terminate spousal support, and that Leo's requests for modification had kept the parties in litigation for much of 2009, 2010, 2013, and 2014. Leo does not argue that these findings are factually incorrect or that the court erred by relying on them[5]; rather, he disagrees that they warrant sanctions. However, "we do not substitute our judgment for that of the trial court, and we will disturb the trial court's decision only if no judge could have reasonably made the challenged decision." (*In re Marriage of Cryer* (2011) 198 Cal.App.4th 1039, 1046-1047.) The court's findings were not unreasonable.

Moreover, Leo's argument that the trial court invited a new request for modification is not supported by the record. The trial court's June 11, 2014 order denying Leo's earlier modification request stated, "If [Leo] discovers that [Lisa] has failed to enroll full-time for the Spring 2014 semester then he should seek an appropriate offset for imputation of income based on that failure." Leo did not discover any such new information. Rather, his July 2014 request for modification was based on evidence received on April 2—more than two weeks before the parties were to provide their closing arguments to the trial court for the 2013 request for modification, and more than two months before the court issued the June 11, 2014 order. Leo apparently did not bring this evidence to the attention of the trial court while his 2013 request for modification was pending. Instead, Leo waited until the court's June 11, 2014 order was final, and then filed a successive request for modification, again based on the argument that Lisa was not enrolled full-time in a graduate program.

---

to raise a point in the briefs, or asserts a point but fails to support it with reasoned argument and citations to authority, we treat the point as forfeited].)

[5]Leo argues that he objected to the statement in Lisa's declaration that Leo threatened to take her back to court every year. The trial court overruled that objection.

These findings provide an ample basis for the trial court's conclusion that Leo filed the request for modification for an improper purpose. Leo purported to seek termination of his spousal support obligations on the basis of "changed circumstances." "A spousal support order is modifiable only upon a material change of circumstances since the last order." "Where there is no substantial evidence of a material change of circumstances, an order modifying a support order will be overturned for abuse of discretion." (*In re Marriage of West* (2007) 152 Cal.App.4th 240, 246.) In other words, a material change in circumstances is a proper purpose for filing a request for modification of spousal support obligations. Here, however, there was no material change in circumstances between the June 11, 2014 court order denying Leo's request for modification and Leo's subsequent July 21, 2014 request for modification. In addition, Lisa already had provided proof of full-time enrollment and a list of her courses. The court did not abuse its discretion by finding that Leo filed the July 21 request for an improper purpose.

Leo also argues that the trial court erred because the June 26 sanctions order includes references to inadmissible evidence. Specifically, the June 26 order stated that it was based, in part, on the following conduct: "Petitioner's admission that he had given his attorney a 'green light and blank check' to continue to bring motions to terminate his spousal support obligations; Petitioner's admission that he makes so much money that he will gladly continue to litigate motions to terminate his spousal support obligations, because 'What else is he supposed to do?'" Leo objected to these statements, and the court sustained the objections.

We agree it was inappropriate for Lisa's counsel to include language in the proposed order based on evidence the court had excluded, and it was improper for the court to sign the order including that language. But this error does not warrant reversal. (See *Soule v. General Motors Corp*. (1994) 8 Cal.4th 548, 574 [an error "does not warrant reversal unless there is a reasonable probability that in the absence of the error, a result more favorable to the appealing party would have been reached"]; Cal. Const., art. VI, § 13.) Even disregarding the two statements to which Leo objected, the court had

ample support for the finding that Leo's request for modification was filed for an improper purpose and that sanctions were warranted under section 128.7, subdivision (b)(1). Support for the order included the findings in the June 11, 2014 order, Leo's subsequent request for modification filed 40 days later despite the lack of any changed circumstances, Leo's threat to take Lisa to court every year, Leo's history of litigation relating to his spousal support obligations, and the timing of Leo's receipt of the evidence used in support of his July 2014 request for modification.

Section 128.7 "requires only that the conduct be objectively unreasonable." (*In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1221.) Sanctions are warranted when a pleading or motion is filed "not to assert any arguably legitimate legal right but to frustrate and impede" the other party. (*Hopkins*, *supra*, 200 Cal.App.4th at p. 1422.) The court's finding that Leo's July 2014 request to terminate his spousal support obligations was presented for an improper purpose did not exceed the bounds of reason.

DISPOSITION

The sanctions order is affirmed. Respondent shall recover her costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

COLLINS, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.